

MONTANA LEGISLATIVE HISTORY

Chapter 169 1993

Bill H 631 S _____

Original bill & history ☒ c

H. Committee on Local Gov.

Hearing Date(s) 2-18 ☒ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Local Gov.

Hearing Date(s) 3-9 ☒ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

3/06	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/09	2ND READING PASSED	96	1
3/11	3RD READING PASSED	94	2
	TRANSMITTED TO SENATE		
3/13	FIRST READING		
3/13	REFERRED TO TAXATION		
4/01	HEARING		
4/01	TABLED IN COMMITTEE		

HB 628 INTRODUCED BY TOOLE, ET AL.
 GENERALLY REVISE WORKERS' COMPENSATION LAWS

2/13	INTRODUCED		
2/13	REFERRED TO WORKERS' COMPENSATION SELECT COMMITTEE		
2/13	FIRST READING		
2/13	FISCAL NOTE REQUESTED		
2/17	HEARING		
2/19	FISCAL NOTE RECEIVED		
2/20	FISCAL NOTE PRINTED		
2/23	CORRECTED FISCAL NOTE PRINTED		
3/11	COMMITTEE REPORT—BILL PASSED AS AMENDED AND REREFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/16	HEARING		
3/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/25	2ND READING DO PASS MOTION FAILED	48	50

HB 629 INTRODUCED BY TOOLE, ET AL.
 REQUIRE HEALTH FACILITY CONSTRUCTION REVIEW SYSTEM IN
 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

2/13	INTRODUCED
2/13	REFERRED TO HUMAN SERVICES & AGING
2/13	FIRST READING
2/13	FISCAL NOTE REQUESTED
2/17	HEARING
2/17	TABLED IN COMMITTEE
2/18	FISCAL NOTE RECEIVED
2/18	FISCAL NOTE PRINTED

HB 630 INTRODUCED BY TUSS, ET AL.
 RAISE MINIMUM WAGE TO \$5.50/HOUR AND INDEX FUTURE INCREASES TO
 FEDERAL WAGE

2/15	INTRODUCED
2/15	REFERRED TO LABOR & EMPLOYMENT RELATIONS
2/15	FIRST READING
2/18	HEARING
2/18	TABLED IN COMMITTEE
2/20	FISCAL NOTE RECEIVED
2/20	FISCAL NOTE PRINTED

HB 631 INTRODUCED BY WALLIN
 ELIMINATE REQUIREMENT THAT LOCAL GOVERNMENT APPROVE LEVY
 OR APPROPRIATION
 BY REQUEST OF HOUSE LOCAL GOVERNMENT COMMITTEE

2/15	INTRODUCED
2/15	REFERRED TO LOCAL GOVERNMENT
2/15	FIRST READING
2/18	HEARING

2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	2ND READING PASSED AS AMENDED	93	3
2/24	3RD READING PASSED	94	4
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO LOCAL GOVERNMENT		
3/09	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED	48	0
3/12	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/16	SIGNED BY SPEAKER		
3/18	SIGNED BY PRESIDENT		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 169		
	EFFECTIVE DATE: 03/24/93		

HB 632 INTRODUCED BY MOLNAR

PROVIDE FOR CONTROL OF OUT-OF-STATE PLACEMENTS OF CHILDREN
WITH MULTIAGENCY SERVICE NEEDS

2/15	INTRODUCED		
2/15	REFERRED TO APPROPRIATIONS		
2/15	FIRST READING		
3/05	HEARING		
3/10	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/13	2ND READING PASSED AS AMENDED	95	2
3/16	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
3/18	FIRST READING		
3/18	REFERRED TO FINANCE & CLAIMS		
3/24	HEARING		
3/25	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	48	0
3/29	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/08	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 324		
	EFFECTIVE DATE: 10/01/93		

HB 633 INTRODUCED BY RUSSELL, ET AL.

CLARIFY LAWS RELATING TO DETENTION OF MENTALLY ILL PERSONS IN
JAIL

2/16	INTRODUCED		
2/16	REFERRED TO JUDICIARY		
2/16	FIRST READING		
2/17	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED		
2/20	2ND READING PASSED	94	4
2/23	3RD READING PASSED	97	3
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO JUDICIARY		
3/16	HEARING		

HOUSE BILL NO. 631

INTRODUCED BY WALLIN
BY REQUEST OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

IN THE HOUSE

FEBRUARY 15, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON LOCAL GOVERNMENT.

FIRST READING.

FEBRUARY 19, 1993 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 20, 1993 PRINTING REPORT.

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

FEBRUARY 22, 1993 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 23, 1993 ENGROSSING REPORT.

FEBRUARY 24, 1993 THIRD READING, PASSED.
AYES, 94; NOES, 4.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON LOCAL GOVERNMENT.

FIRST READING.

MARCH 10, 1993 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 11, 1993 SECOND READING, CONCURRED IN.

MARCH 12, 1993 THIRD READING, CONCURRED IN.
AYES, 48; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 13, 1993 RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 House BILL NO. 631
 2 INTRODUCED BY Wallin
 3 BY REQUEST OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE
 6 REQUIREMENT THAT A LOCAL GOVERNMENT APPROVE THE LEVY OR
 7 APPROPRIATION BY A BOARD, COMMISSION, OR GOVERNING ENTITY OF
 8 TAXES, REVENUE, OR FEES TO PAY FOR BONDS; AMENDING SECTIONS
 9 7-6-2348 AND 7-6-4259, MCA; AND PROVIDING AN IMMEDIATE
 10 EFFECTIVE DATE."
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 7-6-2348, MCA, is amended to read:

14 "7-6-2348. Budgets of appointed boards and commissions
 15 -- exemption for bonds. (1) With respect to tax and fee
 16 money, the proposed budget of and the number of mills to be
 17 assessed by any board, commission, or other governing
 18 entity, except a board of trustees of a public library,
 19 appointed by a local government are subject to approval by
 20 that local government.

21 ~~(2) Tax--levies--pledged--to--the--payment--of--principal--and~~
 22 ~~interest--on--bonds--issued--by--a--commission,--board,--or~~
 23 ~~governing--entity--must--be--approved--by--the--local--government.~~
 24 If a board, commission, or other governing entity issues
 25 bonds and pledges to the payment of the bonds, taxes,

1 revenue, or fees in accordance with the statutes authorizing
 2 the issuance of the bonds, the taxes, revenue, or fees and
 3 the levy or appropriation of the taxes, revenue, or fees are
 4 not subject to approval by the local government appointing
 5 the board, commission, or governing entity."

6 **Section 2.** Section 7-6-4259, MCA, is amended to read:

7 "7-6-4259. Budgets of appointed boards and commissions
 8 -- exemption for bonds. (1) With respect to tax and fee
 9 money, the proposed budget of and the number of mills to be
 10 assessed by any board, commission, or other governing
 11 entity, except a board of trustees of a public library,
 12 appointed by a local government are subject to approval by
 13 that local government.

14 ~~(2) Tax--levies--pledged--to--the--payment--of--principal--and~~
 15 ~~interest--on--bonds--issued--by--a--commission,--board,--or~~
 16 ~~governing--entity--must--be--approved--by--the--local--government.~~
 17 If a board, commission, or other governing entity issues
 18 bonds and pledges to the payment of the bonds, taxes,
 19 revenue, or fees in accordance with the statutes authorizing
 20 the issuance of the bonds, the taxes, revenue, or fees and
 21 the levy or appropriation of the taxes, revenue, or fees are
 22 not subject to approval by the local government appointing
 23 the board, commission, or governing entity."

24 **NEW SECTION. Section 3.** Effective date. [This act] is
 25 effective on passage and approval.

-End-
 -2-

H8631
INTRODUCED BILL

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ----- DATE READ

HB0589	TOOLE, HOWARD		CITY TO PAY IMPACT FEE TO FIRE DISTRICT WHEN ANNEXATION OCCURS			
	2/10	2/16		TABLED ON 02/16	VOTE: 14-2	
HB0613	EWER, DAVID		GENERALLY REVISE LOCAL GOVERNMENT GENERAL OBLIGATION AND REVENUE BONDS			
	2/13	2/18		DO PASS	02/18 VOTE: 16-0	2/19
HB0631	WALLIN, NORM		ELIMINATE APPROVAL BY LOCAL GOV. OF LEVY OF TAX BY BD OR COMMISSION FOR BOND			
	2/15	2/18		PASS AS AMENDED	02/18 VOTE: 15-1	2/19
HB0644	BROWN, DAVE		AUTHORIZE LEASE PURCHASE OF PUBLIC BUILDINGS AND STRUCTURES			
	2/17	2/18		DO PASS	02/18 VOTE: 13-3	2/19
HB0645	SCHYE, TED		INCREASE AVIATION FUEL TAX BY 2 CENTS FOR LOANS AND GRANTS FOR AVIATION			
	2/17				VOTE: TAXATION	
SB0008	KOEHNKE, FRANCIS		ALLOW COMMISSIONERS OF FOURTH-CLASS COUNTIES TO SERVE PART TIME			
	1/12	1/26		CONCUR	01/28 VOTE: 14-1	1/29
SB0025	VAUGHN, ELEANOR		MULTIJURISDICTIONAL SERVICE DISTRICT MAY PROVIDE DISPATCH SERVICE			
	1/19	3/04		CONCUR	03/04 VOTE: 13-3	3/05
SB0049	BIANCHI, DON		REDEFINING A COUNTY ROAD			
	1/25	3/11		TABLED ON 03/16	VOTE: 13-3	
SB0052	DEVLIN, GERRY		ALLOW INTEREST ON COUNTY ROAD OR BRIDGE FUNDS TO RETURN TO ROAD/BRIDGE FUND			
	1/19	3/09		CONCUR	03/09 VOTE: 11-0	3/10
SB0063	WELDON, JEFF		REVISE SPECIAL IMPROVEMENT DISTRICT LAWS			
	1/25	3/09		CONCUR	03/09 VOTE: 11-0	3/10
SB0092	KLAMPE, TERRY		REVISE COUNTY PARK DISTRICT LAW			
	1/26	3/09		CONCUR	03/09 VOTE: 11-0	3/10
SB0103	FRITZ, HARRY		DECREASE INJURED MUNICIPAL LAW ENFORCEMENT MEMBER BENEFITS			
	2/02	3/11		CONCUR	03/11 VOTE: 12-3	3/12

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By NORM WALLIN, CHAIRMAN, on February 18, 1993,
at 3:15 p.m.

ROLL CALL

Members Present:

Rep. Norm Wallin, Chairman (R)
Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Dave Brown (D)
Rep. Tim Dowell (D)
Rep. Dave Ewer (D)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Ed McCaffree (D)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)
Rep. Diane Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Pat Bennett, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 644, HB 631, HB 613
Executive Action: HB 644, HB 631, HB 613, HB 463, HB 536

HEARING ON HOUSE BILL 644

Opening Statement by Sponsor:

REP. DAVE BROWN, HD 72, Butte, informed the Committee that HB 644 would provide an additional mechanism by which local governments and the state could construct facilities. HB 644 would allow the construction of a public facility using the lease-back method of financing. This method has been used successfully in a number of other states. The drafting of the bill was patterned after the

closed down in order to get the lease. REP. BROWN replied that was one of the areas which needs to be addressed and be included in the bill.

Closing by Sponsor:

REP. BROWN closed on HB 644.

HEARING ON HOUSE BILL 631

Opening Statement by Sponsor:

REP. DAVID EWER, HD 45, Helena, introduced HB 631, a committee bill being presented at the request of the Billings airport authorities. Last session a bill was passed which contradicted other statutes. The port and airport authorities have the ability to levy two mills and authority to borrow against those mills. However, through recent changes in the law, county commissioners would be obligated to approve the budgets of these authorities. The problem is no bond holder will provide an authority bond proceeds unless they are assured subsequent commissioners are not going to say no.

Proponents' Testimony:

Mae Nan Ellingson, Dorsey and Whitney, Missoula, testified in favor of HB 631. EXHIBIT 1

Ken Heikes, Yellowstone County and the Montana Trade Port Authority, testified in favor of HB 631.

Gordon Morris, Executive Director, Montana Association of Counties, (MACo), stated that the change made in 1991 was a MACo bill and also came from Yellowstone County and dealt with their port authority to clarify who was in charge. The commissioners are in charge insofar as they appoint the Port Authority who reports to them on the budget. Mr. Morris stated that it was the Association's intent that if they pledge long-term debt the debt service level not be included. The Association therefore is in support of HB 631.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. SAYLES asked Ms. Ellingson if the county commissioners would have oversight of the Airport Authority or if it would be under the direction of the city council. Ms. Ellingson said there are two separate sections of law being amended; one which applies to cities and one which applies to counties. Under the current system they can have city created airport authorities and they can have county created airport authorities. In Missoula the airport authority is created by the county. There can be joint

airport authorities as well.

REP. BROWN informed Ms. Ellingson that he had spoken to Tim Phillips of Missoula, who indicated they should add some language under the exception section in both clauses and add "airport authority" following library. He asked if she felt it was needed.

Ms. Ellingson said that as far as bonding authority, the provision in section two, as amended, gives bond holders and bond council underwriters comfort that they can pledge these revenues. She said she had also spoken to Mr. Phillips, and he is concerned because if you have a duly concentrated airport authority that is a political subdivision and municipal corporation that can incur debt and enter into agreements and issue bonds, why should it have to submit its budget to local governments.

Closing by Sponsor:

REP. EWER closed the hearing on HB 631.

HEARING ON HOUSE BILL 613

Opening Statement by Sponsor:

Rep. David Ewer, HD 45, Helena, explained that the purpose of HB 613 is to acknowledge that the municipal bond industry has changed over the years and legislation has not kept up with the change. The bill repeals many sections relating to bonding. There are technical changes made with regard to principal installments. After 1983 all municipal bonds under federal tax must be registered. Ownership is determined by this registration. Current law requires that the newspaper be used to notify the bondholder that the bonds are callable. If you have a bond issuer who knows who the owners of the bonds are it should not have to use the newspaper. This is a waste of money and effort. Many of the changes to the bill reflect that there are more registered bonds than there are bearer bonds. There are a great many statutes dealing with revenue bonds and there is a redundancy which requires sections be repealed.

Proponents' Testimony:

Mae Nan Ellingson, Dorsey and Whitney, Missoula, testified in favor of HB 613. EXHIBIT 2

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. EWER asked Ms. Ellingson if her testimony should have also included repealing sections 7-13-4302 and 7-13-4303. Ms. Ellingson said the two sections should have been included.

REP. BROWN apologized for the lateness of the bill and assured REP. BRANDEWIE that the questions on bonding and financing will be fully answered by the time the bill reaches the floor. REP. BROWN said his intent was to enhance the operation of the private sector relationship with state government in a manner that is acceptable to both.

Motion/Vote: REP. BROWN MOVED HB 644 DO PASS. Motion carried 13-3 on a roll-call vote with REPS. MCCAFFREE, WYATT, and CHAIRMAN WALLIN opposing.

EXECUTIVE ACTION ON HOUSE BILL 631

Motion: REP. BRANDEWIE MOVED HB 631 DO PASS.

Motion/Vote: REP. BROWN moved to adopt the amendments for HB 631. EXHIBIT 3 Motion carried 10-6 on a roll-call vote with REPS. EWER, MCCAFFREE, SAYLES, SMITH, WINSLOW and WYATT opposing.

Motion/Vote: REP. BROWN MOVED HB 631 DO PASS AS AMENDED. Motion carried 15-1 on a roll-call vote with REP. MCCAFFREE opposing.

EXECUTIVE ACTION ON HOUSE BILL 613

Motion/Vote: REP. WYATT MOVED HB 613 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 536

Motion/Vote: REP. VOGEL MOVED HB 536 DO PASS. Motion carried unanimously.

Motion/Vote: REP. SAYLES MOVED TO PUT HB 536 ON THE CONSENT CALENDAR. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 463

Motion: REP. BRANDEWIE MOVED HB 463 DO PASS.

Discussion: The Committee discussed the effects of this type of legislation and agreed on a provision to sunset July 1, 1995.

Motion/Vote: REP. BROWN MOVED TO AMEND HB 463. EXHIBIT 4 Motion carried unanimously.

Motion/Vote: REP. BRANDEWIE MOVED HB 463 DO PASS AS AMENDED. Motion carried 10-6 with REPS. SAYLES, BROWN, VOGEL, WINSLOW, MCCAFFREE, and CHAIRMAN WALLIN opposing.

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT

COMMITTEE

ROLL CALL VOTE

DATE 2/18/93 BILL NO. HB631 NUMBER 10-6

MOTION: Rep Brown moved to amend
pg 1, line 18 and pg 2, line 11
following "library" insert "an airport authority
Motion passed 10-6. Exhibit 3

NAME	AYE	NO
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. ELLEN BERGMAN	✓	
REP. JOHN BOHLINGER	✓	
REP. DAVE BROWN	✓	
REP. TIM DOWELL	✓	
REP. DAVID EWER		✓
REP. STELLA JEAN HANSEN	✓	
REP. JACK HERRON	✓	
REP. ED McCAFFREE		✓
REP. SHEILA RICE	✓	
REP. TIM SAYLES		✓
REP. LIZ SMITH		✓
REP. RANDY VOGEL	✓	
REP. KARYL WINSLOW		✓
REP. DIANA WYATT		✓
REP NORM WALLIN, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT

COMMITTEE

ROLL CALL VOTE

DATE 2/18/93 BILL NO. HB631 NUMBER 15-1MOTION: Rep Brown moved HB631
do pass as amended.
Motion passed 15-1-

NAME	AYE	NO
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. ELLEN BERGMAN	✓	
REP. JOHN BOHLINGER	✓	
REP. DAVE BROWN	✓	
REP. TIM DOWELL	✓	
REP. DAVID EWER	✓	
REP. STELLA JEAN HANSEN	✓	
REP. JACK HERRON	✓	
REP. ED McCAFFREE		✓
REP. SHEILA RICE	✓	
REP. TIM SAYLES	✓	
REP. LIZ SMITH	✓	
REP. RANDY VOGEL	✓	
REP. KARYL WINSLOW	✓	
REP. DIANA WYATT	✓	
REP NORM WALLIN, CHAIRMAN	✓	

EXHIBIT
DATE 2/18/93
HB 631

DORSEY & WHITNEY

A Partnership for Financial Professionals in Montana

127 EAST FRONT STREET
SUITE 300

MISSOULA, MONTANA 59802
(406) 721-6025
FAX (406) 543-0843

MAE NAN ELLINGSON

300 PARK AVENUE
225 YORK, NEW YORK 10005
(212) 417-0000
FAX (212) 417-0700

3 GRACEDRIVE STREET
LEOPOLD, MISSOURI 64556
(417) 533-1000

30, 305 THIRDCENT
15000 PARIS, FRANCE
33-1-46 46 39 46
35, BOULEVARD DE SEVRES
P. 75000 PARIS, FRANCE
33-1-304 46 46

DORSEY & WHITNEY

Members of the House Local Government Committee
February 18, 1993

Page 2

TO: Members of the House Local Government Committee
FROM: Mae Nan Ellingson *Mae Nan Ellingson*
DATE: February 18, 1993
RE: House Bill 631

HB 602, which has been codified in Sections 7-6-2348 and 7-6-4259, was enacted last year toward the end of the session. As originally introduced, the legislation contained only section (1). We raised the concern that if enacted in its then existing form, it would raise questions about the validity of the pledge of certain tax and other revenues to the repayment of bonds by governing entities who would by definition be subject to the act, but which were authorized in other sections of the law to issue bonds and to pledge both fees, taxes and other revenues to their repayment in accordance with specific statutory compliance.

As we understand it, section (2) was added to HB 602 at the last minute in an effort to clear up this problem. This is reflected by the addition to the title of the bill, the term exemption for bonds. Because of the language actually used in section (2), questions remain. As we see it the two issues are as follows:

1. If, as the legislative history suggests, section (2) was added to make an exclusion for funds pledged to the repayment of bonds, the use of the term tax levies may be too narrow. As you can see in section (1), the term tax and fee money is used. In the case of airport authorities issuing bonds, it is primary fees, in the form of rents, leases, landing fees and the like that are pledged to the repayment of bonds, so failure to also include fees in the exception presents a conflict. The proposed solution would simply say that if the authority pledges taxes, revenues or fees in accordance with the statutes, those taxes, revenues and fees would be included in the exception.

2. The second confusion is the use of the term "must be approved". When HB 602 is read in its entirety, as amended, it appears that the use of the term "must be approved" means there is no discretion not to approve. I think this interpretation is bolstered by the use in the first section of the term "subject to approval." If the legislature had meant "must be approved" to mean "subject to approval", it would have used that term. But on reading the statute as it is now codified, without tracing the legislative history, there is a real question as to what is meant by those terms, and the fact that there is a question raises questions as to validity of the pledge of certain taxes and revenues by an airport authority, for example, which in turn raises questions about the marketability of the bonds for which such revenues are pledged.

The amendment contained in House Bill 631, does not attempt to alter the purpose of the initial legislation, as amended, but rather attempts to clarify the amendment, simply by saying if a governing entity that is appointed by a city council or county commission, as the case may be, and is otherwise authorized by statute to pledge taxes or revenues to the repayment of bonds, that it can do so without the city or county's approval.

EXHIBIT # 5
DATE 2-18-93
HB # 631

Amendments to House Bill No. 631
First Reading Copy

Requested by Representative Dave Brown
For the Committee on Local Government

Prepared by Bart Campbell
February 19, 1993

1. Page 1, line 18.
Following: "library"
Insert: "and an airport authority"

2. Page 2, line 11.
Following: "library"
Insert: "and an airport authority"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LOCAL GOVERNMENT

COMMITTEE

BILL NO.

HB 631

DATE

2/18/93

SPONSOR (S)

Rep Ewan

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

LOCAL GOVERNMENT

page #5

[illegible]

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Senator Kennedy, on March 9, 1993, at
3:00 p.m.

ROLL CALL

Members Present:

Sen. Ed Kennedy, Chair (D)
Sen. Sue Bartlett, Vice Chair (D)
Sen. Dorothy Eck (D)
Sen. Delwyn Gage (R)
Sen. Ethel Harding (R)
Sen. John Hertel (R)
Sen. David Rye (R)
Sen. Bernie Swift (R)
Sen. Eleanor Vaughn (D)
Sen. Mignon Waterman (D)
Sen. Jeff Weldon (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Council
Rosalyn Cooperman, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 189, HB 299, HB 440, HB 631
Executive Action: HB 186, HB 189, HB 254, HB 440, HB 631

HEARING ON HB 299

Opening Statement by Sponsor:

Representative Norm Wallin, House District 78, stated HB 299 would recognize the Local Government Center (Center) at Montana State University (MSU) and would allow the Center to receive legislative appropriations. He said the Board of Regents has approved the Center as an outreach program within the Department of Political Science at MSU which provides local governments with training, on-site technical assistance and applied research. Representative Wallin submitted to the record a copy of the

replied HB 299 was introduced to recognize the value of the Center's existence to Montana's local governments. He said he hoped the work of his Center would be recognized as important to local governments and would receive funding on that basis.

Closing by Sponsor:

Representative Wallin concluded it was important to pass HB 299 to get recognition of the Center in the law books.

HEARING ON HB 631

Opening Statement by Sponsor:

Representative Norm Wallin stated the Airport Authority Act was passed in 1970. He said this act gave the Airport Authority's Board of Directors the authority to operate the airport. Representative Wallin stated HB 631 would expand the Board's authority to borrow money. He said the most important revision to HB 631 was contained in Section 1, subsection 2 which reads, "if a board, commission, or other governing entity, other than a port authority created under Title 7, Chapter 14, Part 11, issues bonds and pledges to the payment of bonds, taxes, revenue, or fees in accordance with the statutes authorizing the issuance of the bonds, the taxes, or fees and the levy or appropriation of the taxes, revenue, or fees are not subject to approval by the local government appointing the board, commission, or governing entity". Representative Wallin concluded HB 631 would give these entities the authority to sell revenue bonds but not general obligation bonds.

Proponents' Testimony:

Ms. Mae Nan Ellingson, Dorsey & Whitney, spoke from prepared testimony in support of HB 631. (Exhibit #2)

Mr. Tom Ebzery, Montana Airport Management Association, stated his organization's support for HB 631.

Ms. Beverly Gibson, Montana Association of Counties, stated her organization's support for HB 631.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage stated Ms. Ellingson has more credibility with the Legislature than any other person in the state of Montana.

Closing by Sponsor:

Representative Wallin concluded HB 631 would not give these governing entities any additional authority. Instead, HB 631 would allow these governing entities to pledge taxes or revenue to the repayment of bonds without first seeking their approval from their city council or county commission.

Discussion:

Senator Kennedy stated he was a sponsor of the committee bill requested by the Committee shortly before transmittal. He said Ms. Ellingson was helping him move the bill, SB 426, through the Taxation Committee.

HEARING ON HB 440**Opening Statement by Sponsor:**

Representative Norm Wallin, House District 78, asked Representative David Ewer to present the hearing on HB 440.

Representative David Ewer, House District 45, stated HB 440 would define water and sewer districts as a unit of local government. He said HB 440 defines a district as a unit of local government separate and distinct from a municipality, and added that a district may be treated as a municipality when applying for a grant, loan or other financial assistance from the state. Representative Ewer stated HB 440 was drafted in response to a law suit in the Bozeman area over the establishment of a water district. He said a court recently ruled that the way in which the water district was assessing fees was unconstitutional.

Proponents' Testimony:

Representative Norm Wallin, House District 78, stated his support for HB 440. He said HB 440 would clarify the status of water and sewer districts.

Senator Weldon stated he did not want to discourage the activity of the Center at MSU but said if the Center is to be recognized for its contributions, the Bureau at UM should be recognized as well.

Senator Kennedy asked Senator Weldon if the Bureau at UM was a part of the Political Science Department, to which Senator Weldon replied it was. Senator Kennedy stated such an association differs it from the status of the Center at MSU.

Senator Rye stated "Them that asks, gets. Them that don't ask, don't get."

Senator Weldon stated he had spoken with Senator Harry Fritz who had wanted to introduce a similar measure for the Bureau in the last legislative session, but was persuaded against doing so. He said he did not know why Senator Fritz did not proceed with his idea.

Senator Gage asked if the Board of Regents testified as proponents or opponents to HB 299 during either the House or Senate hearings. Representative Wallin stated the Board of Regents did not testify on HB 299.

Senator Vaughn stated the Bureau at UM received university funding while the Center at MSU did not. It was her opinion the Center wanted recognition, not funding, from the state.

Senator Weldon asked the Committee to pass consideration on HB 299 until he had the opportunity to talk with individuals from the University of Montana Political Science Department.

EXECUTIVE ACTION ON HB 631

Motion/Vote:

Senator Eck moved HB 631 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY. Senator Kennedy will carry HB 631 on the Senate floor.

EXECUTIVE ACTION ON HB 186

Discussion:

Connie Erickson explained the amendments offered to HB 186. (Exhibit #4) She said the amendments to HB 186 would increase the penalty for delinquent taxes to 4 percent.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 10, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 631 (first reading copy -- blue), respectfully report that House Bill No. 631 be concurred in.

Signed: John Ed Kennedy, Jr.
Senator John "Ed" Kennedy, Jr., Chair

ORIGINAL COURT DOCUMENT
EXHIBIT NO. 2
DATE 3-9-93
BILL NO. HB 631

DORSEY & WHITNEY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2200 FIRST BANK PLACE EAST
MINNEAPOLIS, MINNESOTA 55402
(612) 340-2600

201 FIRST AVENUE S. W., SUITE 340
ROCHESTER, MINNESOTA 55902
(507) 288-3156

1200 FIRST INTERSTATE CENTER
BILLINGS, MONTANA 59103
(406) 252-3800

307 DAVIDSON BUILDING
GREAT FALLS, MONTANA 59401
(406) 727-3632

801 GRAND, SUITE 3900
DES MOINES, IOWA 50309
(515) 283-1000

127 EAST FRONT STREET
SUITE 310
MISSOULA, MONTANA 59802
(406) 721-6025
FAX (406) 543-0863

MAE NAN ELLINGSON

350 PARK AVENUE
NEW YORK, NEW YORK 10022
(212) 415-9200

1330 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20036
(202) 857-0700

3 GRACECHURCH STREET
LONDON EC3V 0AT, ENGLAND
44-71-929-3334

36, RUE TRONCHET
75009 PARIS, FRANCE
33-1-42-66-59-49

35 SQUARE DE MERÛS
B-1040 BRUSSELS, BELGIUM
32-2-504.46.11

TO: Members of the Senate Local Government Committee

FROM: Mae Nan Ellingson

DATE: March 9, 1993

RE: House Bill 631

HB 602, introduced in the 1991 legislative session, has been codified in Sections 7-6-2348 and 7-6-4259. As originally introduced, the legislation contained only section (1). We raised the concern that if enacted in its then existing form, it would raise questions about the validity of the pledge of certain tax and other revenues to the repayment of bonds by governing entities who would by definition be subject to the act, but which were authorized in other sections of the law to issue bonds and to pledge both fees, taxes and other revenues to their repayment in accordance with specific statutory compliance.

As we understand it, section (2) was added to HB 602 at the last minute in an effort to clear up this problem. This is reflected by the addition to the title of the bill, the term "exemption for bonds." Because of the language actually used in section (2), questions remain. As we see it the two issues are as follows:

1. If, as the legislative history suggests, section (2) was added to make an exclusion for funds pledged to the repayment of bonds, the use of the term tax levies may be too narrow. As you can see in section (1), the term tax and fee money is used. In the case of airport authorities issuing bonds, it is primarily fees, in the form of rents, leases, landing fees and the like that are pledged to the repayment of bonds, so failure to also include fees in the exception presents a conflict. The solution, as reflected in HB 631, would simply provide that if the authority, when it issues its bonds, pledges taxes,

DORSEY & WHITNEY

Members of the Senate Local Government Committee
March 9, 1993
Page 2

revenues or fees in accordance with the statutes, those taxes, revenues and fees would be included in the exception.

2. The second confusion is the use of the term "must be approved". When HB 602 is read in its entirety, as amended, it appears that the use of the term "must be approved" means there is no discretion not to approve. We believe this interpretation is bolstered by the use in the first section of the term "subject to approval." If the legislature had intended "must be approved" to mean "subject to approval", it arguably would have used that term. But on reading the statute as it is now codified, without tracing the legislative history, there is a real question as to what is meant by those terms, and the fact that there is a question raises questions as to validity of the pledge of certain taxes and revenues by an airport authority, for example, which in turn raises questions about the marketability of the bonds for which such revenues are pledged.

House Bill 631, as originally proposed, does not attempt to alter the purpose of HB 602, as approved, but rather attempts to clarify the amendment made to HB 602, simply by saying if a governing entity that is appointed by a city council or county commission, as the case may be, and is otherwise authorized by statute to pledge taxes or revenues to the repayment of bonds, that the annual appropriation of such taxes and revenues to the repayment of such bonds is not subject to the appointing governing body's approval.